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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,925	12/28/2001	Troy Raymond Pesola	2001-094-NSC	2303

7590 01/04/2005

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EXAMINER

THAI, TUAN V

ART UNIT	PAPER NUMBER
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2186

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/033,925

Applicant(s)

TROY ET AL.

Examiner

Tuan V. Thai

Art Unit

2186

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 10. Other: Applicant's arguments filed November 15, 2004 have been considered but they are not deemed to be persuasive. In response to Applicant's remarks starting on pages 12 et seq., Examiner would like to emphasize that Kikinis in fact does teach and suggest every elements of the Applicant's current invention as recited in claim 1. For example, in response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the additional layer of functionality between the host machine applications and the data storage library..., second paragraph of page 13 of the remarks) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The additional layer (known in the current claim 1 as a secondary virtual volume) is taught by Kikinis which known to be embedded within the secondary IDE device having an EIDI microcontroller/firmware for translating between the EIDE protocol and the protocol of the particular device (e.g. see Kikinis's col. 5, lines 19 et seq.) wherein the mapping process is part of the translating protocol which must included within the system of Kikinis to carry out the translating operation. With respect to the arguments regarding claims 7, 18 and 23-33 under U.S.C. 103 obviousness (pages 14-18) wherein (a) the computer-readable medium of instruction to be implemented on a computer, Examiner realized that Kikinis does not in fact discloses such feature as being detailed in the FINAL office action page 7 (see Examiner 103 rejection); however, one of ordinary skill in the art would have recognized that computer readable medium (i.e., floppy, cd-rom, etc.) are widely known for carrying computer-executable instructions to implement a method, because it would facilitate the transporting and installing of the method on other systems, which is generally well-known in the art.; Examiner hereby again refers Applicant's counsel to the 103 rejection for claim 23 in the FINAL office action; (b) with respect to the redirecting of access request in response to a fault in a physical volume of the first secondary virtual volume. Examiner realizes that Kikinis does not discloses such feature as being detailed in the office action, however concept of redirecting request is disclosed in Kikinis to server the purpose of idle state of the first secondary virtual volume (e.g. see column 5, lines 33 et seq.), NOT as in the state of response to a fault as being claimed. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to readily recognize (a) the idle state of the primary device is read to include the fault state as being claimed, and (b) by redirecting access request to other storage media(s) when a failure or fault in the primary device, it would ensure the continuous data operational cycle without introducing any additional delay or data corruption in the system, therefore system liability is greatly enhanced.


TUAN V. THAI
PRIMARY EXAMINER